

05-RIN-01236-02



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:  
C-14J

APR 11 2002

Peter J. Bedard  
401 North Michigan, Suite 1900  
Chicago, Illinois 60611

Re: Subpoena for Deposition - for Production of Documents only  
AMEC Construction Management v. Grand Pier Center  
Number: 01 CH 11407  
Consolidated with: 01 CH 10930

Dear Mr. Bedard:

I am writing in response to the above-referenced subpoena, dated March 29, 2002, and received on April 8, 2002, by the Office of Regional Counsel, United States Environmental Protection Agency, Region 5, Chicago, Illinois. The subpoena issued by the Circuit Court of Cook County, Illinois, County Department, Chancery Division, Mechanic's Lien Section, commands the production of records listed in the subpoena attachment "Rider To Records Subpoena To The United States Environmental Protection Agency."

The USEPA has promulgated regulations with respect to responses to subpoenas issued in matters to which the Agency is not a party. See 40 C.F.R. §§ 2.401 *et seq.* A copy of those regulations is enclosed and is applicable to subpoenas *ad testificandum* (a person) and *duces tecum* (documents). Basically, the USEPA must determine if a substantive response to the subpoena is clearly in the interest of the Agency. If, in the case of a subpoena for documents, a determination is made that this prerequisite is not met, the Agency will answer the subpoena in accordance with established regulations at 40 C.F.R. § 2.404.

This subpoena relates to a private action in the Circuit Court of Cook County, Illinois. Such actions are not within the scope of responsibilities of the USEPA. Therefore, no interest of the Agency would be served in providing a substantive response to the subpoena. Given this finding, we will assume that you will withdraw the subpoena unless we hear further from you.

Since 40 C.F.R. Section 2.405 requires that a request for documents listed in the subpoena be treated as a Freedom of Information Act request, the Region 5 FOIA Officer, Louise Debrower

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(312-886-6686) (Mail Code: MRI-9J) will assign your request a FOIA number and direct your request to the proper office(s.) You need not submit a FOIA request. I am also returning your \$20.00 check made payable to the United States Environmental Protection Agency, Region 5.

Sincerely,

*Bertram C. Frey*

*Acting  
for*

David A. Ullrich  
Acting Regional Counsel

Enclosure

2181 - Served  
2281 - Not Served  
2381 - Served by Mail

Rec'd ORK/JH 4-8-02

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(Rev. 6-20-94) CCG-14

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION  
MECHANIC'S LIEN SECTION

AMEC Construction Management,  
Inc.

v.

Grand Pier Center, L.L.C., et al

NO. 01 CH 11407  
Consolidated with

01 CH 10930

RECEIVE

APR 05 2002

SUBPOENA FOR DEPOSITION  
FOR PRODUCTION OF DOCUMENTS ONLY  
NO TESTIMONY WILL BE TAKEN

U.S. EPA REGION 5  
OFFICE OF REGIONAL COUNCIL

To: United States Environmental Protection Agency, Region 5  
Attn: Thomas Skinner  
77 West Jackson Boulevard  
Chicago, Illinois 60604

YOU ARE COMMANDED to produce your records before a notary public at Michael Best & Friedrich LLC, 401 North Michigan Avenue, Suite 1900, Chicago, Illinois 60611, on April 22, 2002 at 10:00 a.m.

YOU ARE COMMANDED ALSO to bring the following: See Attached Rider.

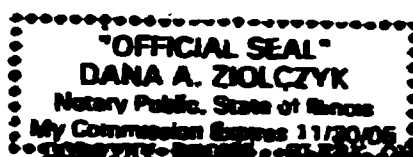
YOUR FAILURE TO APPEAR IN RESPONSE TO THIS SUBPOENA WILL SUBJECT YOU TO PUNISHMENT FOR CONTEMPT OF THIS COURT.

WITNESS MAR 23 2002, 2002  
*[Signature]*  
Clerk of Court

Name Peter P. Herzog  
Peter J. Bedard  
Helen M. Burke,  
Michael Best & Friedrich LLC  
Attorney For Plaintiff  
Address 401 North Michigan, Suite 1900  
City Chicago, Illinois 60611  
Telephone 312/222-0800  
Atty No. 16519

I served this subpoena by certified mail to United States Environmental Protection Agency, Region 5, Attn: Thomas Skinner, on March 29, 2002. I paid the witness \$28.00 for witness and mileage fees.

Signed and sworn to before me on 02 MARCH 29, 2002



*[Signature]*  
Notary public

24CLINT06720002-00000001 THE CIRCUIT COURT OF COOK COUNTY

MAY 17 2002

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION  
MECHANIC'S LIEN SECTION**

AMEC CONSTRUCTION MANAGEMENT, INC., )

Plaintiff-Counterdefendant, )

v. )

GRAND PIER CENTER, L.L.C., et al. )

Defendants-Counterplaintiffs. )

LASALLE BANK NATIONAL ASSOCIATION )

Plaintiff-Counterdefendant, )

v. )

GRAND PIER CENTER, L.L.C., et al. )

Defendants-Counterplaintiffs. )

No. 01 CH 11407

Consolidated with

No. 01 CH 10930

Judge Robert J. Quinn

**RIDER TO RECORDS SUBPOENA TO  
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**DEFINITIONS AND INSTRUCTIONS**

1. The term "Defendants" shall mean and refer to Grand Pier Center, L.L.C. and EPC Group, L.L.C., their parents, subsidiaries and affiliates, any of their predecessors, successors or assigns, and its or their officers, directors, employees, representatives and agents and all persons acting at the direction or on behalf of one or more of them.

2. The term "AMEC" shall mean and refer to AMEC Construction Management, Inc. and/or Morse Diesel International, Inc.

3. The term "LaSalle" shall mean and refer to LaSalle Bank National Association, Inc., its parents, subsidiaries and affiliates, any of its or their predecessors, successors or assigns,

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and its or their officers, directors, employees, representatives and agents and all persons acting at the direction or on behalf of one or more of them.

4. The term "Lehman" shall mean and refer to Lehman Brothers Holdings, Inc., its parents, subsidiaries and affiliates, any of its or their predecessors, successors or assigns, and its or their officers, directors, employees, representatives and agents and all persons acting at the direction or on behalf of one or more of them.

5. The term "Property" shall mean and refer to the Property commonly known as 200 East Illinois, Chicago, Illinois.

6. The term "Project" shall mean and refer to the design, fabrication and construction of the improvements at the Property.

7. The term "Loeb" shall mean and refer to Loeb, Schlossman & Hackl, its parents, subsidiaries and affiliates, any of its or their predecessors, successors or assigns, and its or their officers, directors, employees, representatives and agents and all persons acting at the direction or on behalf of one or more of them.

8. The term "Thornton" shall mean and refer to Thornton-Tomasetti Engineers, its parents, subsidiaries, and affiliates, any of its or their predecessors, successors or assigns, and its or their officers, directors, employers, representatives and agents and all persons acting at the direction or on behalf of one or more of them.

9. The term "GMP Contract" shall mean and refer to the Guaranteed Maximum Price Contract entered into on or about October 29, 1999 between Grand Pier Center, L.L.C. and AMEC.

10. The term "USEPA" shall mean and refer to the United States Environmental Protection Agency.

11. The term "documents" means or refers to all written or graphic matter of every kind or description however produced or reproduced, whether draft or final, original or reproductions, and all tangible things, specifically including, but not limited to, drawings issued for construction, drawings issued for bid, revisions to drawings, architect generated sketches,

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contractor generated sketches, field generated sketches, design sketches, shop drawings, construction change authorizations, construction change directives, construction change orders, invitations to bid, instructions to bidders, addenda, writings, graphs, charts, photographs, phone records, data compilations (from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form), letters, correspondence, memoranda, minutes, notes, contracts, agreements, memoranda of conversations, films, transcripts, microfilm, desk calendars, appointment books, diaries, time sheets, logs, bulletins, circulars, notices, rules, regulations, prospectuses, directions, teletype messages, interoffice communications, reports, company sheets, credit files, evidences of indebtedness, negotiable instruments, telegrams, mailgrams, books, news releases, newspapers, magazines, advertisements, periodicals, pamphlets, sketches, drawings, statements, reports, articles of incorporation, by-laws, directives, minutes of meetings, balance sheets, income and loss statements, profit and loss statements, inventories, operating budgets, accounting worksheets, financial statements, stock transfer books, ledgers, journals, books of accounts, bills, vouchers, bank checks, proposals, offers, orders, receipts, invoices, checks, working papers, telephone messages, notebooks, postcards, evaluations, recommendations, annual reports, confirmations, leases, analyses, feasibility or market studies, disbursement requests or orders, charts, graph indices, projections, forms, data sheets, data processing disks or readable computer-produced interpretations, booklets, articles, manuals, speeches, stenographic notes, maps, studies, tests, surveys, cables, tape and disk recordings, photographs, blueprints, slides, audit reports, personal interviews, summaries or paraphrases of any of the foregoing or material similar to any of the foregoing, however denominated, which are in the possession, custody, or control of the party upon whom this request is served, or to which said party can obtain access.

12. If a document has been prepared in several copies, or additional copies have been made and the copies are not identical (or by reason or subsequent modifications, are no longer identical), each nonidentical copy is a separate "document."

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13. "Communication" means or refers to all inquiries, discussions, conversations, negotiations, agreements, understandings, meetings, telephone conversations, letters, notes, memoranda, telegrams, advertisements, or other forms of verbal intercourse, whether oral or written, or any summaries, paraphrases or other records of any of the foregoing.

14. "Relate to," including but not limited to its various forms such as "relating to," shall mean consist of, refer to, reflect or be in any way logically or factually connected with the matter discussed.

15. Whenever appropriate, the singular form of a word should be interpreted in the plural and vice versa.

16. All words and phrases shall be construed as masculine, feminine, or neuter gender, according to the context. "And" as well as "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this request any information which might otherwise be construed to be outside of the scope.

17. "Person" means or refers to any individual, corporation, partnership, association, organization and any other entity of any type and nature.

18. With respect to the production of any documents or the disclosure or nondisclosure of information that you claim to be privileged, a privilege log shall be provided setting forth as to each document:

- a. the name of the sender, if any, of the document;
- b. the name of the author of the document;
- c. the name of the person, if any, to whom copies were sent;
- d. the date of the document;
- e. the date on which the document was received by those having possession of the document;
- f. a brief description of the nature and the subject matter of the document;
- g. the statute, rule or decision which is claimed to give rise to the privilege;

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- h. the last known custodian of the document and the present location of the document;
- i. attachments to the document;
- j. the number of pages comprising the document; and
- k. whether the document is handwritten, typewritten or otherwise prepared.

19. The term "identify," as used in connection with the identification of persons, means to state the following information with respect to each person:

- a. full name;
- b. age;
- c. current or last known employer or name of business;
- d. current or last known title or job description;
- e. current or last known work address;
- f. current or last known residence address; and
- g. if employed by you, the period of time so employed and title and job description during such time.

20. The term "identify," as used in connection with the identification of documents, means to state the following information with respect to each document:

- a. the name and address of the author;
- b. the date, and if undated, its date of preparation;
- c. the general nature of the document, i.e., whether it is a letter, a memorandum, a pamphlet, a report, etc.;
- d. the name and address of all persons to whom the original or a copy of the document was addressed; and
- e. the name and address of each person now having possession of a copy of the document and the location of each such copy of the document.

21. "Identify," when used with respect to a communication, means to state the name and present address of each person present at the communication and to state the subject matter



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of the communication. If the communication was in writing, or later memorialized in writing, identify all documents which relate to the communication in the manner provided above.

22. All requests for production shall be deemed continuing in nature so as to require supplemental production if further information is obtained or discovered by you between the time these requests are answered and the time of trial, and such information shall be furnished to AMEC's attorneys within a reasonable time after it becomes known or is obtained.

### DOCUMENT REQUESTS

1. Any and all documents evidencing communications between the USEPA and AMEC concerning the Project.
2. Any and all documents relating to or evidencing communications between the Defendants and the USEPA concerning the Project.
3. Any and all documents relating to or evidencing communications between the USEPA and Raymond M. Chin, Sue Ling Gin and/or Linval Chung concerning the Project.
4. Any and all documents relating to or evidencing communications between the USEPA and any of AMEC's subcontractors concerning the Project.
5. Any and all minutes, notes, memoranda, records or other documents memorializing discussions at all meetings held during the course of the Project.
6. Any and all documents which refer to or relate to communications between the USEPA and the City of Chicago regarding the Project.
7. Any and all documents which refer to or relate to communications between the USEPA and STS Consultants, Ltd. regarding the Project.
8. Any and all other documents not heretofore previously requested related to the discovery of thorium at the Property and remediation of the same.

9. Any and all documents not heretofore requested relating to or regarding the Project.

Respectfully submitted,

AMEC CONSTRUCTION MANAGEMENT, INC.

By: 

One of Its Attorneys

Peter F. Herzog, Esq.  
Peter J. Bedard, Esq.  
Helen M. Burke, Esq.  
Michael Best & Friedrich, LLC  
401 North Michigan Avenue  
Suite 1900  
Chicago, Illinois 60611  
(312) 222-0800

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